

BOARD OF ADJUSTMENT REPORT



MEETING DATE: 5/5/2004

ITEM No. _____

ACTION REQUESTED: Zoning Ordinance Variance

SUBJECT Amoroso Residence
6-BA-2004

REQUEST Request to approve a variance from Article V. Section 5.104.G.1 regarding wall height on a parcel located at 8020 E Happy Valley Road with Single Family Residential, Environmentally Sensitive Lands (R1-43 ESL) zoning.

OWNER Pietro & Pietra Amoroso
602-791-7518

APPLICANT CONTACT Nick Amoroso
Pietro & Pietra Amoroso
602-791-7518

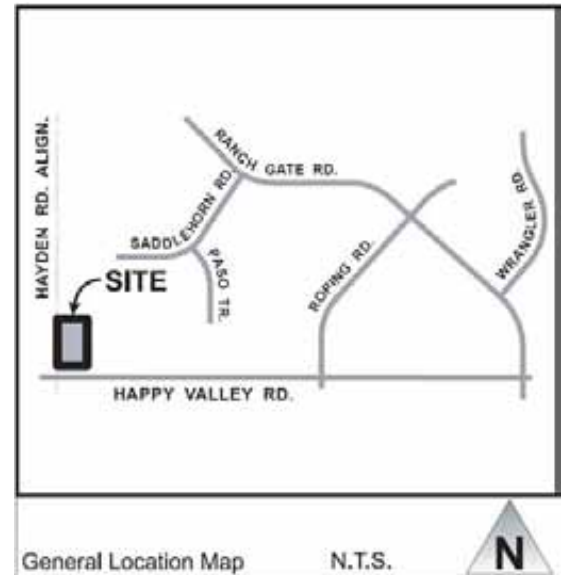
LOCATION 8020 E Happy Valley Rd

CODE ENFORCEMENT ACTIVITY Planning and Development Services Planning Inspection Staff has identified the code violation during the final site inspection.

PUBLIC COMMENT None at the time of the drafting of this report.

ZONE R1-43 Single Family Residential, Environmentally Sensitive Lands (ESL)

ZONING/DEVELOPMENT CONTEXT This home is located on a metes and bounds parcel, not within a residential platted subdivision. The parcel was created from the parent parcel by a City of Scottsdale approved lot split application in April 1998. The home located on the parcel is currently occupied under a Temporary Certificate of Occupancy.



- To the west of parcel is the Hayden Road right-of-way and an undeveloped 160 ± acre single-family residential parcel with the Environmentally Sensitive lands and Foothills overlay zoning (R1-43 ESL FO).
- To the east is an undeveloped single-family residential parcel with the Environmentally Sensitive lands overlay zoning (R1-43 ESL)

- To the north is a single-family residential developed on metes and bounds parcel with the Environmentally Sensitive Lands overlay zoning. (R1-43 ESL)
- To the south is the Happy Valley Road right-of-way and the Pinnacle Peak Estates Unit Three Phase One & Two subdivision, a single-family residential development with the Planned Residential Development and Environmentally Sensitive lands overlay zoning. (R1-43 PRD ESL)

ORDINANCE
REQUIREMENTS

Article V, Section 5.104.G.1 requires that walls, fences and hedges shall not exceed 3-feet in height on the front property line or within the required front yard.

DISCUSSION

The applicant is requesting a variance to allow a 6-foot tall wall/fence, and 8-foot entry gates and column walls to be constructed within the required front yard setback along Happy Valley Road. The wall/fence, gate, and columns have been constructed on the front property line adjacent to Happy Valley Road.

Walls, fences and hedges are permitted in the required front yard up to a maximum height of 3-feet pursuant to the Zoning Ordinance. The R1-43 zoning district requires a front yard to be provided on Happy Valley Road having a depth measured from the right-of-way line of not less than 40-feet.

The City of Scottsdale approved a grading and drainage site plan for this home indicates a 3-foot maximum site wall on top of a retaining wall in the requested variance location. The approved grading and drainage site plan also indicates grading and soil fill conditions that the applicant did not construct in the requested variance location. Since the applicant did not construct all of proposed grading within the enclosed portion of the lot, this left approximately 3-feet of exposed retaining wall in front yard that would have been otherwise been below grade in addition to the 3-foot wall/fence that was constructed on top of the retaining wall. In accordance with the Zoning Ordinance, wall heights are measured from the inside of the enclosure. Therefore the total height of the wall is in excess of the allowable 3-feet.

The home is currently occupied under a Temporary Certificate of Occupancy; a Final Certificate of Occupancy has not been issue by the City of Scottsdale at the time of this drafting this report.

FINDINGS

- 1. That there are special circumstances applying to the property referred to in the application which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address:**

The applicant indicates that it was possible to grade the property without the additional dirt fill.

Staff acknowledges that there may be several grading solutions to the subject lot; although upon review of the approved grading and drainage site plan, the engineer of record is proposing fills in the area of the subject wall/fence to accommodate the grade transition from the home's finished floor back to natural existing grades. The approved grading and drainage site plan also indicate that the maximum height of the subject site wall/fence shall be 3-feet.

The site also contains an 8-foot gate across the driveway that is in violation of the maximum 3-foot height requirement. The gates were not on the approved grading and drainage site plan or included in the approved construction documents for the home.

- 2. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other properties within the same zoning classification and zoning district:**

Authorization of this variance would allow this property the ability to maintain the constructed fences, gates, and column walls in the front yard without having to import expansive landfill and re-grade the lot, or reduce the height of the wall/fence and column walls.

Staff has concluded that the lots in the vicinity of the subject lot complying with the walls height requirements of the Zoning Ordinance.

- 3. That special circumstances were not created by the owner or applicant:**

The applicant states that the wall/fence were constructed prior to the construction of the home with the intent to fill and grading the property. When the home was constructed, it was no longer necessary to fill the property because of the way the home was elevated and they were able to grade the property without additional dirt fill. The applicant indicates that the need for the fill was accidental.

Staff did not identify any special circumstance that may have prevented the applicant from building the wall/fence and column walls in accordance with the approved grading and drainage site plan, or in accordance with the zoning ordinance requirements.

The gates were not on the approved grading and drainage site plan or included in the approved construction documents for the home and were constructed without city approval.

4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general:

The applicant states that the wall/fence, gate, and column walls are within all the correct setbacks and building envelopes, they will not affect City or State utilities, and will not affect City or State employee's conducting business or working nearby. The applicant also states that the wall/fence, gate, and column walls has no effect on the adjacent property since there is no adjacent property.

Staff has concluded that the proposed wall/fence, gate, and columns walls would require a minimum 40-foot setback as required by the Zoning Ordinance, which is substantially consistent with developments adjacent to the subject lot.

The location of the proposed wall/fence, entry gates and column walls at the intersection of Hayden Road and Happy Valley Road encroaches into the Sight Visibility Triangle as defined under section 7.104.A.1 and 7.104.A.3 of the Zoning Ordinance, which limits the height of any obstruction to 2-feet within the 25-foot by 25-foot triangle from the established street line elevation. Staff will require the wall to be lowered to meet the 2-foot requirement, or be removed from the sight visibility triangle.

STAFF CONTACT

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ATTACHMENTS

- | | |
|---------------------------|----------------|
| 1. Project Narrative | 6. Zoning Map |
| 2. Background Information | 7. Photographs |
| 3. Justification Proposed | 8. Site Plan |
| 4. Context Aerial | |
| 5. Aerial Close-up | |

Project Narrative

When we started this project at 8020 E. Happy Valley RD. Scottsdale, AZ 85255. We had to trench the perimeter of the property 10 to 15 feet deep and we had to put a flood retaining/bearing wall. Above the retaining/bearing wall was continued to 6 feet. Of the 6 foot fence 3 feet is a retaining wall and the other 3 feet is a wrought iron fence.

This home site is in the flood plain so we had to elevate the foundation 4 to 6 feet in height. The reason the fence in question is 6 feet in height is that the first 3 feet is a retaining wall because we had to fill the land with 3 feet of dirt to grade the property. Due to the fact of the expense to fill the property with dirt we have the property to grade without any fill, which now leaves us with a 6-foot fence.

ATTACHMENT #1

**6-BA-2004
03/31/2004**

Background Information
For Board of Adjustment



CASE # 6-BA-2004
PROJECT # _____ - PA -
CONTINUED TO _____
HEARING DATE _____
CHAIRMAN _____

DATE _____
APPROVED AS PRESENTED _____
APPROVED W/STIP _____
DENIED _____

APPLICANT TO FILL OUT THIS PORTION

VARIANCE REQUESTED AT (STREET ADDRESS WHERE VARIANCE IS REQUESTED)

8020 EAST HAPPY VALLEY ROAD

TO BE COMPLETED BY YOUR COORDINATOR

ARTICLE AND SECTIONS OF ZONING ORDINANCE TO BE VARIED

ARTICLE V SECTION 5.104. G.1

SCOTTSDALE ZONING REQUIRES

WALLS, FENCES, AND HEDGES NOT TO EXCEED THREE (3) FEET IN HEIGHT ON THE FRONT PROPERTY LINE OR WITHIN THE REQUIRED FRONT YARD

APPLICANT'S REQUEST

ALLOW WALLS AND FENCES TO A HEIGHT OF 6 FEET AND ENTRY GATES AND COLUMN WALLS TO A HEIGHT OF 8 FEET IN THE REQUIRED FRONT YARD AND ON THE FRONT PROPERTY LINE

AMOUNT OF VARIANCE

WALL AND FENCES OF A 3 FEET VARIANCE AND ENTRY GATES AND COLUMN WALLS OF A 5 FEET VARIANCE

PROCEDURES OF THE BOARD OF ADJUSTMENT

There will be three notices of hearing: One on the property, two within 300 feet, and a notice will be published in the daily newspaper, at least 15 days before the hearing, and a notice will be mailed to adjacent property owners, within 300', at least 15 days before the hearing.

The Chairman shall determine what parties are available to represent the applicant, and they shall present the case. The staff will be heard, then those in favor or in opposition. After arguments have been heard, the party representing the owner will have an opportunity for rebuttal after which the Chairman may declare the questioning and argument closed. A vote will then be taken on the matter of approval or denial.

No variance shall be granted resulting in any changes in the uses permitted in any zoning classification or which constitute special privilege.

The application and all maps, plans and other accompanying data and material shall be available for public inspection during office hours at the office of the building official.

A notice of hearing will be mailed to the applicant 6 days before the hearing.

For information regarding applications please call: 994-7080.

ATTACHMENT #2

6-BA-2004
03/31/2004

Justification for requested variance

1

It does apply to most properties in the district that are in the flood plain. But most of those properties had most likely filled their property with dirt to grade. In our circumstance it was possible to grade property without any dirt fill.

Justification for requested variance

2

With the authorizing of this variance the other properties in this zoning district can enjoy a beautiful fence without the hassle of an expansive landfill. Now they can use this retaining wall to build a waterfall, desert rockscape, desert landscape ECT...

Justification for requested variance

3

Because the fence was built prior to building the home with the intent to fill and grade the property. When the home was constructed with the approval of the city of Scottsdale when the home was completed it was not necessary to fill the property the because the way that the home was elevated we were able to grade the property without the expensive dirt fill which was all accidental.

Justification for requested variance

4

because the fence is on the property within all the correct setbacks & building envelope. Further more has nor effect on any city or state utilities which will not effect any city or state employee's conducting business or working nearby. It has no effect on adjacent property because fence in question has no adjacent property. It has no effect to the neighborhood because it blends in with the neighborhoods criteria. This fence does not effect the public welfare in general because it is like any other fence



Q.S.
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G.I.S. ORTHOPHOTO 2003

Amoroso Residence

6-BA-2004

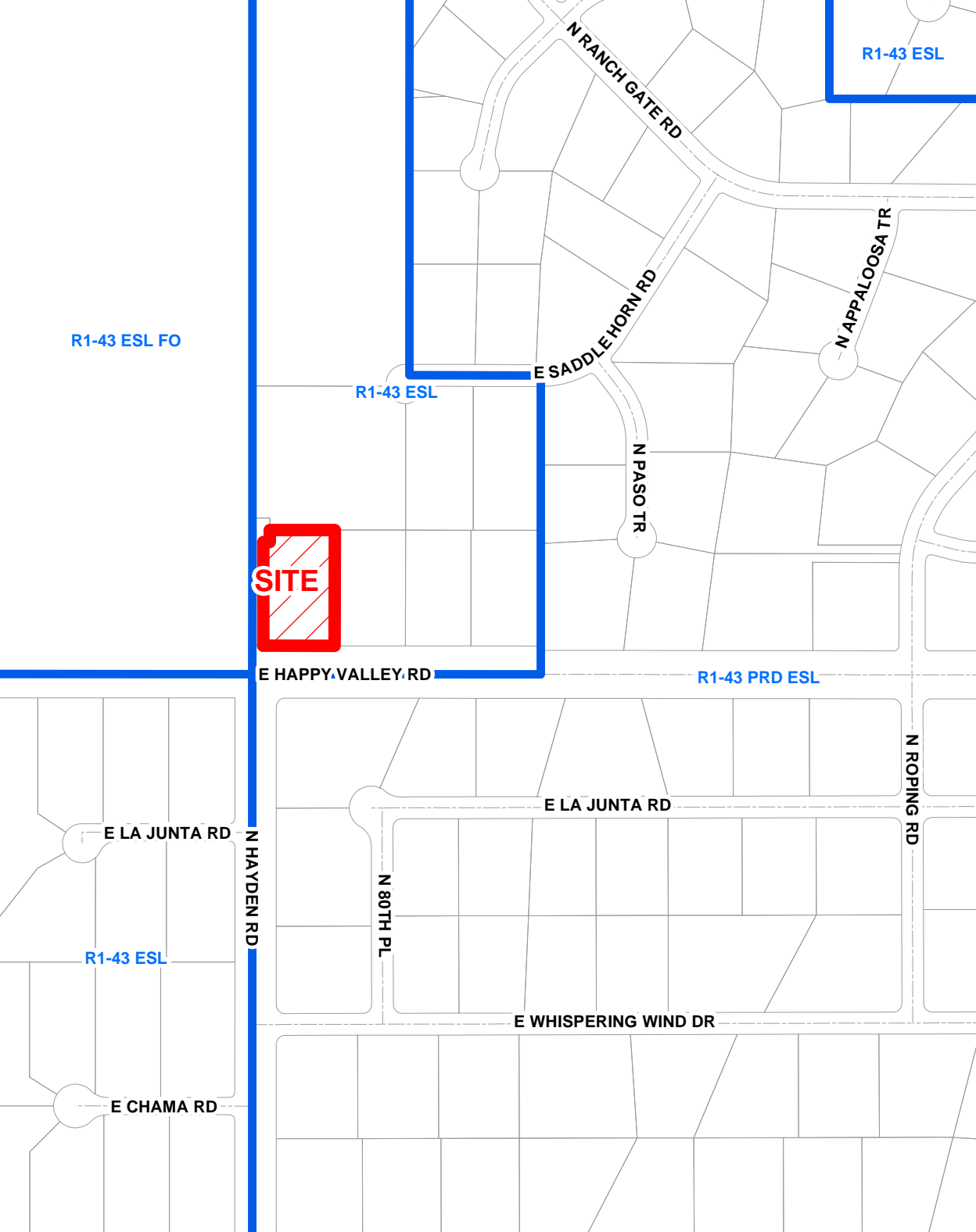
ATTACHMENT #4



Amoroso Residence

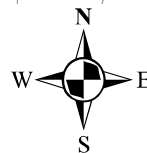
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ATTACHMENT #5



6-BA-2004

ATTACHMENT #6



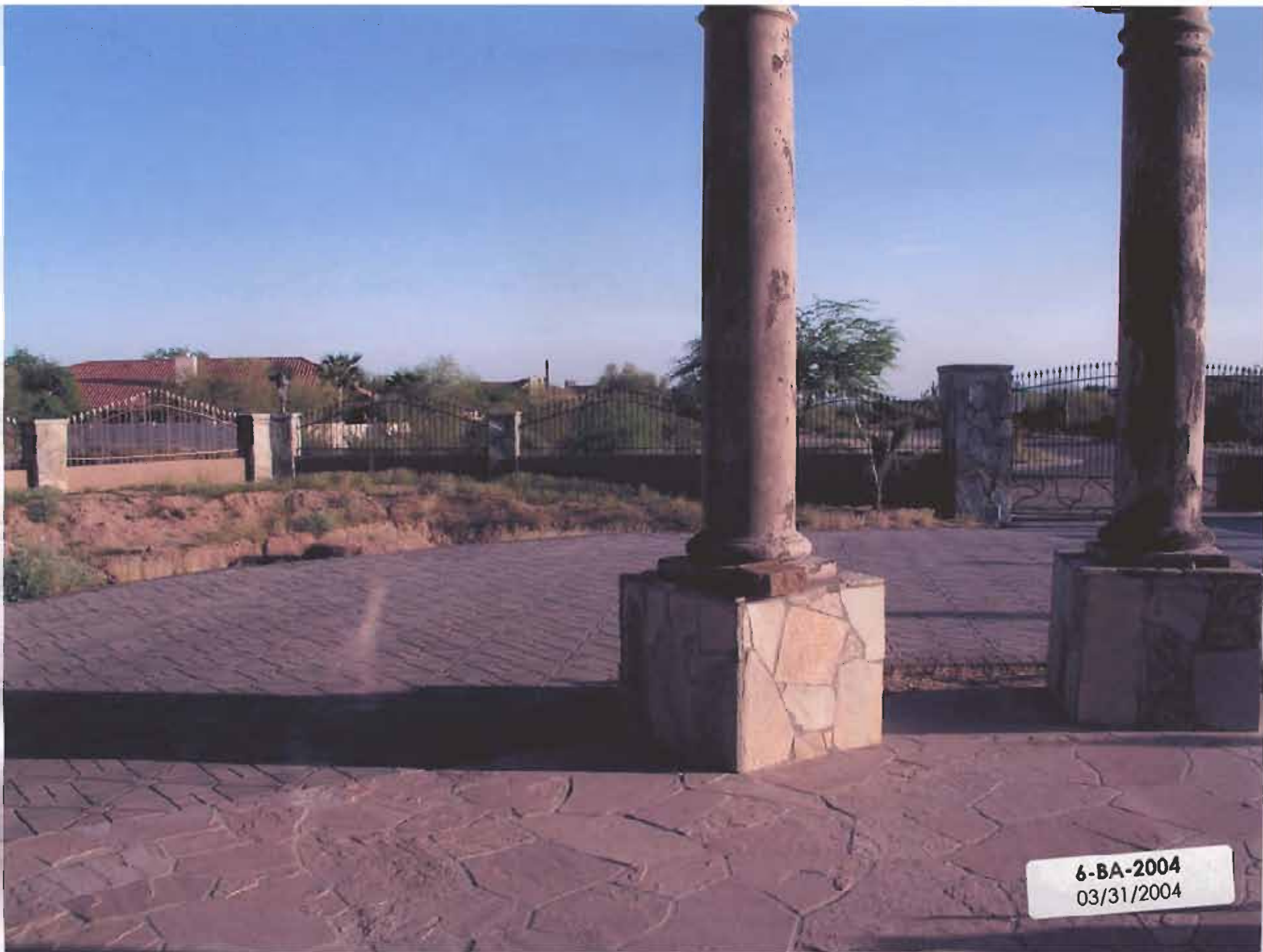


ATTACHMENT #7

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